

REMARKS/ARGUMENTS

The applicants acknowledge, with thanks, the Office Action dated August 6, 2009. Claims 1, 11, 21, and 31 have been amended herein. No claims were canceled. Claims 41-44 have been newly added. Accordingly, claims 1-44 are currently pending.

Applicants respectfully submit that new claims 41-44 present no new matter. A diagram illustrating the pool distribution model simplified to show only a single retail shipper (user) is shown in Fig. 3. The inbound scanning of goods 304 of Fig. 3 of goods received from multiple retail shippers 302 by a pool distributor in a geographical region is further illustrated in Fig. 20. The outbound scanning 306 of Fig. 3 of the pooled goods is further illustrated in Fig. 21. The batch delivery scanning 308 of Fig. 3 of a set of pooled goods as distributed in an area of the geographical region is further illustrated in Fig. 22. Fig. 45, for example, shows a report on a delivery scanner of the pool distributor of goods pooled from a plurality of retail shippers (BLOCKB, LTA, UNITED) and delivered to selected end destinations (Store 90549, Store 01003, etc.) on a single pooled distribution route.

Reconsideration of the instant application as amended is respectfully requested.

The Office Action

Claims 1-40 were rejected in the Office Action of August 6, 2009 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2002/0010661 to Waddington et al. (*hereinafter*, "Waddington"), in view of U.S. Patent No. 7,257,552 to Franco (*hereinafter*, "Franco"). In addition, the drawings were objected to because they contain hand-written annotations. New corrected drawings in compliance with 37 CFR § 1.121(d) were required by the Examiner.

In view of the amendments and arguments set forth below, it is submitted that all pending claims are novel, patentably distinct, and unobvious over the art of record.

The Non-Art Matters

None of the claims were rejected in the Office Action of August 6, 2009 for non-art reasons. In the previous Action, however, the Examiner took the position that claims 31-40 were directed to non-statutory subject matter.

There is no reference in the Action of August 6, 2009 to any rejections of any claims under 35 U.S.C. §101.

Accordingly, it is submitted that the amendments previously tendered to claims 31-40 placed them claims in condition for allowance under 35 U.S.C. §101.

Corrected drawing figures in compliance with 37 CFR § 1.121(d) were required by the Examiner in the Office Action of August 6, 2009. Applicants have submitted a set of formal drawing figures together with this response. It is respectfully submitted that the corrected drawing figures are in compliance with 37 CFR § 1.121(d).

The Art Matters

As noted above, all pending claims were rejected in the Office Action of August 6, 2009 under 35 U.S.C. §103(a) as being unpatentable over Waddington, in view of Franco. However, applicants respectfully submit that the claims as amended in the instant application are novel, patentably distinct, and unobvious over the art of record.

By way of general review, the subject application teaches a distribution system by which individual retail shippers are enabled to achieve individualized control as to shipping, routing, and tracking their orders of merchandise “pushed” out to distribution points via an intermediary pooled transport distribution system. This retailer control is particularly advantageous in the pooled shipping arrangement, such as in an embodiment wherein a large retail shipper may use the pooled shipping channel in common with one or more other retail shippers. This is distinctive from more conventional shipping systems, such as FedEx or UPS, wherein a retailer (user) engages a third-party shipper, specifying the destination and delivery type (such as Express, Ground, Overnight, etc.). In such situations, the retailer sender is unconcerned with routing, and is further at the whim of the shipping company as to which tracking information is available to the sender.

The subject application contemplates systems wherein larger volume shippers, for example, retailers, have multiple items to ship to multiple locations. Different retailers have different routing than may be optimal, including a shipping path and consolidation of shipments for cost or efficiency reasons. This is especially true when a shipping company concurrently services many retail establishments, each having their own desirable shipping, routing or

consolidation needs. The subject application teaches an embodiment wherein a retailer shipper having such sender-driven flexibility and control over the associated pooled transport distribution system would be afforded significant competitive advantages over more conventional shipping companies using traditional carriers such as FedEx, UPS, etc. and/or using the distribution center mode of operation.

As described at paragraph [0113] of the present application, in the pool distribution model, goods are also warehoused at a distribution center; however, they are not delivered to the customer directly from the distribution center. Goods for multiple delivery points in a single geographic area are loaded on a tractor trailer at a retail shipper's distribution center for example, and are then shipped to a secondary, usually independent, warehouse ("pool distribution point") where the goods are unloaded, sorted and segregated into single store orders together with the goods of other retailers shipping those goods to end destinations such as retail stores in a geographical area through the pool distribution point warehouse. These orders are then shipped from the pool distributor to their ultimate delivery point by one or more trucks, etc., fanning out into a corresponding set of routes to deliver the pooled goods of the multiple retailers to end destinations on the route. A diagram illustrating the pool distribution model simplified to show only a single retail shipper is shown in FIG. 3.

Waddington was cited by the Examiner and is directed to a distribution system wherein a driver is able to select his or her routing for a particular drop-off run, as well as a standardized tracking system. Each of the independent claims have been amended to include features directed to sender-driven consolidating of items prior to delivery thereof by the associated pooled transport distribution system and sender-driven system routing of the consolidated items in the associated pooled distribution system. For the reasons discussed earlier during prosecution and herein, it is submitted that, as amended, all claims now include features far removed from the art of record.

With regard to the above, the claims recite an electronic system, a method, and a computer-implemented method for managing items in a supply chain. For example, in the system of independent claim 1, an item information capturing means is adapted for capturing item identification information associated with a plurality of items associated with a plurality of unique shipper sources and delivery destinations, each of the plurality of items being identified

for supply chain management in connection with an associated pooled transport distribution system. A consolidation mode specifying means is adapted for receiving first user input corresponding to a user-selected consolidation mode relative to consolidation by grouping a set of items associated with first and second shippers prior to delivery as a pooled group of items, and routing of transport of the set of items associated with the first and second shippers by a pool distribution of the associated pooled transport distribution system. A capturing mode specifying means is adapted for receiving second user input corresponding to each of the plurality of sources, each received second user input being representative of a selection of at least one of a plurality of capturing modes, wherein each capturing mode is adapted for creating associated information by associating the captured item identification information with supply chain information in accordance with one of the plurality of sources corresponding thereto. A communicating means is adapted for communicating the associated information to an associated data storage device for storage in accordance with one of the plurality of sources corresponding thereto. Still further, a means of the system is adapted for commencing distribution of each item of the set of items of the pooled group of items by the associated pooled distribution system to its associated destination in accordance with the consolidation and routing specified by the user-selected consolidation mode corresponding thereto.

Waddington falls far short of teaching, suggesting, or fairly disclosing these features recited in the independent claims as amended in the instant application.

The Examiner has cited to paragraph [0085] of Waddington for an alleged teaching of a method for managing items in a supply chain comprising "capturing item identification information associated with a plurality of items associated with unique sources and destinations into a computer inclusive of a processor and data storage, each of the plurality of items being identified for supply chain management." However, without conceding that this portion of Waddington discloses the feature identified by the Examiner, this portion bears no relation and includes no reference to an associated pooled transport distribution system or to an ability to operate, control or function with an associated pooled transport distribution system. In particular, as recited in the independent claims of the instant application, using claim 1 as an example, the item information capturing means is adapted for capturing item identification information associated with a plurality of items associated with a plurality of unique shipper

sources and delivery destinations, each of the plurality of items being identified for supply chain management in connection with an associated pooled transport distribution system.

Applicants respectfully submit that nothing in Waddington teaches, suggests, or fairly discloses an electronic system for managing items in a supply chain wherein each of the plurality of items are identified for supply chain management in connection with an associated pooled transport distribution system. Paragraph [0085] of Waddington only discloses:

FIG. 5 illustrates the general operations performed for the delivery of the containers. A more detailed description of the delivery operations will be described below. First, the delivery device 40 downloads a delivery information file from the distribution center computer system at step 50. The labeled containers or other labeled shipping units containing ordered items, such as cases, bags, coolers and pallets, are loaded onto the delivery vehicle 14 according to the route number 36 on their labels 30 at step 52. Using the delivery device 40, the driver selects a route and stop on the delivery device 40 and stops at the corresponding retail store 16 or customer at step 54. At the retail store 16, the driver scans the barcodes 32 of the labeled containers corresponding to the retail store 16 and unloads those containers at the retail store 16 at step 56. Once all of the containers destined for the retail store 16 are unloaded, the driver obtains a signature with the delivery device 40 of the receiving agent or clerk at the retail store 16 to confirm the delivery of the containers at step 58. After the delivery has been completed at that retail store 16, the driver determines whether that retail store 16 is the last stop at step 60. If additional deliveries must be made at other retail stores 16, the driver returns to step 54 and selects the next stop. If the answer at step 60 is yes, the driver returns to the distribution center 12 at step 62. Upon return to the distribution center 12, the delivery information captured on the delivery device 40 during the deliveries is uploaded to the distribution center computer system.

The Examiner also cited to paragraphs [0079] and [0097] of Waddington for an alleged teaching of “capturing identification information associated with a plurality of items associated with unique sources and destinations into a computer inclusive of a processor and data storage, each of the plurality of items being identified for supply chain management.”

Applicants respectfully submit that neither of these paragraphs teach, suggest, or fairly disclose these features and, further, that nothing in Waddington teaches, suggests, or fairly discloses capturing item identification information associated with a plurality of items, each of the plurality of items being identified for supply chain management in connection with an associated pooled transport distribution system.

Paragraph [0079] of Waddington only discloses:

The distribution center 12 generally performs the steps illustrated in FIG. 2 to service orders from the retail stores 16 or other entity. First, the distribution center 12 receives the order at step 20. In one embodiment, a centralized computer system or distribution center computer system receives the order through a communication link, such as the Internet, with the retail store 16 or customer. In other embodiments, the order may be received by mail, facsimile or telephone. All orders are entered into the distribution center computer system. The distribution center computer system runs a software package designed to manage the operations of the distribution center 12. The software package provides inventory management including item storage locations and quantity of the items in the warehouse. The software package also coordinates servicing of the orders. One example of the distribution center software package is ACUMAX.TM. developed and used by MckessonHBOC, the assignee of the present invention. In an alternative embodiment, a centralized computer system, such as a host server located away from the distribution center warehouse, performs the operations of the distribution center computer system. One centralized computer system may perform the distribution operations for several distribution centers. Additionally, the distribution center computer system may be a stand-alone computer, located within or away from the distribution center.

Paragraph [0097] of Waddington only discloses:

In an alternative embodiment, the delivery vehicle 14 may be loaded with shipping containers from a cross-dock. That is, a large delivery vehicle unloads its shipping containers into several smaller delivery vehicles. The preload features on the delivery device 40, as described above on the delivery device 40, may also be used when loading the delivery vehicle from a cross-dock.

Applicants have tendered amendments to each of independent claims 1, 11, 21, and 31 herein to clarify the manner in which the recited system, method, computer readable medium, and computer implemented method are advantageously useful in connection with an associated pooled transport distribution in the system. In that regard, in connection with independent claim 1 for example, the consolidation mode specifying means is adapted for receiving first user input corresponding to a user-selected consolidation mode relative to consolidation by grouping a set of items associated with first and second shippers prior to delivery as a pooled group of items, and routing of transport of the set of items associated with the first and second shippers by a pool distributor of the associated pooled transport distribution system. The means in the recited electronic system adapted for commencing distribution are adapted for commencing the

distribution of each item of the set of items of the pooled group by the pool distributor of the associated pooled transport distribution system to its associated destination in accordance with the consolidation and routing specified by the user-selected consolidation mode corresponding thereto.

Applicants respectfully submit that neither Waddington nor Franco, nor any of the art of record, alone or in combination, teach, suggest, or fairly disclose these features.

The Examiner conceded on page 3 of the Office Action that Waddington does not explicitly disclose “in connection with an associated pooled transport distribution system” or “receiving second user input corresponding to each of the plurality of sources, each received second user input being representative of a selection of at least one of the plurality of capturing modes, wherein each capturing mode is adapted for creating associated information by associating the captured item identification information with supply chain information in accordance with one of the plurality of sources corresponding thereto” or “communicating the associated information to the data storage for storage in accordance with one of the plurality of sources corresponding thereto.”

Applicants generally agree that Waddington fails to disclose these features in particular and, as noted above, other features as well including the feature of receiving a first user input corresponding to a user-selected consolidation mode relative to consolidation by grouping a set of items associated with first and second shippers prior to delivery as a pooled group of items, and routing of transport of the set of items associated with the first and second shippers by a pool distributor of the associated pooled transport distribution system. Waddington also fails to disclose means adapted for commencing distribution of each item of the set of items of the pooled group by the pool distributor of the associated pooled transport distribution system to its associated destination in accordance with the consolidation and routing specified by the user-selected consolidation mode corresponding thereto.

Applicants respectfully submit that Franco falls short of teaching, suggesting, or disclosing these features as well as the features identified by the Examiner as being lacking in Waddington. In particular, the Examiner cited to Fig. 3, 20, and 22A of Franco together with column 13, lines 8-20 for an alleged teaching of the capturing mode specifying and communicating recited in the independent claims of the present application.

First, applicants respectfully submit that Franco bears no relation to systems configured or adapted for use in connection with associated pooled transport distribution systems. Rather, Franco is only concerned with execution of individual consumer orders that are, nonetheless, single item orders pulled out of inventory. Essentially, the Franco system is a “pull” type distribution system wherein a customer may order a specific item and the Franco system delivers that item to the customer. Accordingly, these features recited in the independent claims as amended relating to operation in connection with an associated pooled transport distribution system are not described or disclosed in either Waddington or Franco.

In addition, applicants respectfully submit that the portions of Franco cited by the Examiner fall short of disclosing the capturing mode specifying or communicating recited in the independent claims. More particularly, Franco is directed to consumer products distribution systems wherein consumers may purchase products through websites of local and remotely located retailers wherein the items purchases from the multiple retailers are aggregated at a consumer selected order aggregation site based upon a consumer specified schedule. A consumer can pick up the aggregated orders at the selected order aggregation site, or have the aggregated orders delivered to a residence. Commercial carriers may process consumer parcels at the order aggregation sites where they are combined with aggregated orders for pick up or delivery. However, there is no teaching, suggestion, or disclosure of capturing mode specifying means adapted for receiving user input corresponding to each of plurality or sources, each received second user input being representative of the selection of at least of a plurality of capturing modes, wherein each capturing mode is adapted for creating associated information by associating the captured item identification information with supply chain information in accordance with one of the plurality of sources corresponding thereto. Further, the customer selected order aggregation site teaching of Franco falls short of disclosing or suggesting communicating means adapted for communicating the associated information to an associated data storage device for storage in accordance with one of the plurality of sources corresponding thereto and means adapted for commencing distribution of each item of the set of items by an associated pooled transport distribution system to its associated distribution in accordance with a consolidation and routing specified by a user-selected consolidation mode corresponding thereto.

For at least the above reasons, applicants respectfully submit that each of independent claims 1, 11, 21, and 31 as amended above are novel, patentably distinct, and unobvious over the art of record including Waddington and Franco. Claims 2-10 and 41 are dependent from independent claim 1. Claims 12-20 and 42 are dependent from independent claim 11. Claims 22-30 and 43 are dependent from independent claim 21. Claims 32-40 and 44 are dependent from independent claim 31.

CONCLUSION

In accordance with the afore-noted amendments and comments, it is submitted that all claims are patentably distinct over the art, and in condition for allowance thereover. An early allowance of all claims is respectfully requested.

If there are any fees necessitated by the foregoing communication, the Commissioner is hereby authorized to charge such fees to our Deposit Account No. 50-0902, referencing our Docket No. 78297/00001.

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Respectfully submitted,



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